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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 UNITED STATES OF AMERICA,  
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11 Plaintiff,  
12 v.  
13 LYNDON FISCHER,  
14 Defendant.

Case No. CR17-69RSL

ORDER GRANTING  
MOTION TO MODIFY  
CONDITIONS OF  
PROBATION

15 This matter comes before the Court on defendant's "Motion to Modify Condition of  
16 Probation Pursuant to 18 U.S.C. § 3563(c)." Dkt. # 5. The Court has considered the parties'  
17 memoranda and the remainder of the record.

18 On December 7, 2016, defendant Lyndon Fischer pleaded guilty to conspiracy to defraud  
19 the United States (in violation of 18 U.S.C. § 371), and filing a false federal tax return (26  
20 U.S.C. § 7206(1)). See United States v. Fischer, CR15-419JO, Dkt. # 43 (D. Or. Nov. 30, 2015)  
21 [hereinafter "Or. Dkt."]. Fischer's guilty pleas stemmed from a scheme where he and a business  
22 partner avoided paying more than half a million dollars in taxes. See Or. Dkt. # 22. Fischer was  
23 sentenced by the Honorable Robert E. Jones, United States District Judge for the District of  
24 Oregon. Or. Dkt. # 38. Instead of imprisonment, Judge Jones sentenced Fischer to five years'  
25 probation with the condition of home confinement, because that would allow Fischer to work  
26 toward repaying the taxes he owed and would avoid Fischer's employees losing their jobs. See  
27 Dkt. # 5-1 at 2. At sentencing, Judge Jones remarked, "Now as far as the home detention is  
28 concerned, once everything is paid back, the amount that is due on back taxes, interests, and

1 penalties, I will consider a modification of your conditions at that time, but not before.” Dkt. #  
2 5-2 at 3. Fischer has served 16 months of his 60-month sentence and has satisfied the restitution  
3 he was ordered to pay. See Dkt. # 5-3. Having paid back the money, Fischer moves to modify  
4 his probation to remove the conditions of home confinement and GPS monitoring. Dkt. # 5.

5 The Court has discretion to “modify, reduce, or enlarge the conditions of a sentence of  
6 probation at any time prior to the expiration or termination of the term of probation.” 18 U.S.C.  
7 § 3563(c). In modifying any conditions, the Court considers the factors that guided the initial  
8 setting of the conditions. 18 U.S.C. § 3563(c); see id. § 3563(b) (referring to the factors set forth  
9 in 18 U.S.C. §§ 3553(a)(1)–(2)). When weighing these factors, the Court “enjoys discretion to  
10 consider a wide range of circumstances.” United States v. Emmett, 749 F.3d 817, 819 (9th Cir.  
11 2014).

12 The Court applauds defendant’s successful satisfaction of the restitution ordered and  
13 (after consultation with the sentencing judge) concludes that modifying the conditions of his  
14 probation is warranted at this time. For the foregoing reasons, the motion, Dkt. # 5, is  
15 GRANTED.

16 DATED this 21<sup>st</sup> day of August, 2018.

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19 Robert S. Lasnik  
20 United States District Judge  
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